

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3
4 UNITED STATES OF AMERICA

5 VS.

CRIMINAL NO. AMD-04-029

6 WILLIE MITCHELL, et al.

7 DEFENDANTS

8 Baltimore, Maryland

9 December 5, 2008

10 The above-entitled case came on for trial before
11 the Honorable Andre M. Davis, United States District
12 Judge

13 TRIAL DAY 35

14
15 AFTERNOON SESSION

16
17 A P P E A R A N C E S

18
19 For the Government:

20 Robert R. Harding, Esquire
21 Michael C. Hanlon, Esquire

22 For Defendant Mitchell:

23 Laura Kelsey Rhodes, Esquire
24 Michael E. Lawlor, Esquire

25 Gail A. Simpkins, RPR
Official Court Reporter

1 For Defendant Martin:

2 Thomas L. Crowe, Esquire
3 James G. Pyne, Esquire

4 For Defendant Gardner:

5 Barry Coburn, Esquire
6 Adam H. Kurland, Esquire

7 For Defendant Harris:

8 Gerard P. Martin, Esquire
9 Paul Flannery, Esquire

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P R O C E E D I N G S

(Court resumed session 3:20 p.m.)

THE COURT: Good afternoon. I believe --
where's Ms. Rhodes?

I believe you all have received copies of the jury note that we just received, as well as a proposed question that I would like to put to the jury in the form of a yes or no response on my letterhead.

The jury says, "Once the jury reaches a unanimous verdict on all counts, minus the two against the specific defendant, how do our deliberations proceed?"

So the jury I think is telling us that they are ready for an Allen charge, although there is enough -- not that they are ready for an Allen charge, but that the case may be ready for an Allen charge.

But in any event, it seems to me I ought to seek clarification, and I propose to do so through this letter, this note that I would send into the jury which reads ladies and gentlemen, your last note is ambiguous. Do you mean to say that you have reached a unanimous verdict as to all counts and all defendants, with the exception of "the two against the specific defendant," which is the language taken from the note. Please provide your answer below, yes or no.

1 Do any of counsel have any objection to my
2 sending in this note? Of course, what we do after we
3 get the answer is a different issue, but at least we
4 can clarify the ambiguity, I hope.

5 MS. RHODES: No objection, Your Honor.

6 MR. MARTIN: No objection, Your Honor.

7 MR. CROWE: No objection, Your Honor.

8 MR. COBURN: None here either, Your Honor.

9 THE COURT: All right. Ms. Arrington, if you'll --
10 Oh, Mr. Harding?

11 MR. HARDING: No objection.

12 THE COURT: Sorry, sorry.

13 Apparently the hand signals from that juror to
14 Ms. Arrington had to do with his reimbursements, his
15 expenses and so forth. Ms. Arrington and my law
16 clerks have made the necessary photocopies and so
17 forth. SO that's what that was all about.

18 (Pause.)

19 MS. RHODES: Your Honor, can I be excused very
20 briefly to make a phone call?

21 THE COURT: Sure. Is it going to take more than
22 one minute?

23 MS. RHODES: I hope not. I just need to leave a
24 message at my daughter's school.

25 THE COURT: Okay. Sure. Of course.

1 MS. RHODES: Thanks.

2 (Pause.)

3 THE COURT: The jury's answer to my question is
4 yes. Let's wait a moment for Ms. Rhodes.

5 (Pause.)

6 Ms. Rhodes, the jury has answered the Court's
7 question, yes.

8 MS. RHODES: Thank you.

9 THE COURT: So I have one of my stock -- not one
10 of. I only have one -- Allen charges here. I don't
11 think I have ever given it more than once.

12 Obviously the question arises whether the Court
13 should give an Allen charge at all, whether there is
14 sufficient interest in having the jury work further to
15 try to resolve what appear to be only two counts
16 relating to a single defendant if, I think if we are
17 reading their notes in the way that I think they are
18 intended to be read.

19 So we can obviously do something in the nature
20 of what I was proposing earlier. We could either have
21 the jury send out the verdict sheet and I could either
22 disclose or not disclose to counsel what that reveals
23 in the way of which counts.

24 We could just bring the jury out, and I'll give
25 the modified Allen charge and send them back to work,

1 or we could bring the jury out, I could say to the
2 jury, ladies and gentlemen of the jury, we understand
3 that you have completed virtually all of your work.
4 There remain two counts. Do you think that further
5 work on those counts is reasonably likely to result in
6 agreement within a reasonable period of time, without
7 giving the Allen charge?

8 I'll do whatever counsel can somehow reach
9 agreement the Court should do. I think you know my, I
10 think you know my position.

11 Go ahead, Mr. Harding.

12 MR. HARDING: Well, I'm inclined to think an
13 Allen charge at this point is the appropriate
14 solution, Your Honor. That's the government's
15 preference.

16 Is it impossible to keep them here the rest of
17 the afternoon? I understand Your Honor has a 4
18 o'clock engagement, but it sounds like we could reach
19 a resolution of this this afternoon.

20 THE COURT: That's both possible and one view of
21 the circumstances, impossible.

22 I mean I have to say that I am quite impressed
23 with the lucidity of this foreperson, who we are told
24 is Juror Number 12. Belinda reports that under his
25 leadership, he has left the jury room in pristine

1 condition every day. He makes them clean up. He is
2 something of a prankster perhaps from some of the
3 things that have been left in there that Belinda have
4 seen in the way of toys and that kind of thing.

5 I guess what I'm saying is he seems to be really
6 a master of his domain, and when he writes out and
7 says reasoned views firmly held -- that's what that
8 earlier note said -- that signals to me that he has
9 been pushing them. Now, that's wholly speculative on
10 my part of, course.

11 But the specific answer to your question, Mr.
12 Harding, is yes, I can keep them here this afternoon.
13 Obviously I told them I was going to excuse them at
14 three. It's now 3:30. But if what we all come to is,
15 Judge, give them the Allen charge and just send them
16 back, you know, I'll do that.

17 As we all know, they have been leaving every day
18 at four, well, I guess a couple of days at 4:30, and I
19 know that there's that one juror who clearly seems to
20 work the second shift somewhere, because she is out of
21 here every day at four. Maybe she has got child-care
22 issues or something. But I don't think it's
23 reasonably likely that they are going to stick around
24 today.

25 Now whether I require them to come back on

1 Monday, they've already told us they will come back on
2 Monday and Tuesday, if necessary.

3 So I think more likely what's going to happen,
4 and really, this has nothing to do with the court
5 activities this afternoon, I think what's likely to
6 happen is they are going to probably be excused to
7 return on Monday, and I can give the Allen charge on
8 Monday morning.

9 MR. HARDING: Well, that's fine with the
10 government, Your Honor. But if the Court is willing,
11 you might offer them the option of staying today and
12 not --

13 THE COURT: Well, that's what it would amount
14 to, yes.

15 MR. HARDING: Okay.

16 THE COURT: Of course.

17 MR. HARDING: Thank you.

18 THE COURT: Learned counsel.

19 MS. RHODES: I thought he was talking to me.
20 Okay.

21 MR. COBURN: I'm sure he was.

22 (Laughter.)

23 MS. RHODES: Can I just ask the Court --

24 THE COURT: Of course.

25 MS. RHODES: -- what are you proposing to say?

1 THE COURT: I'm sorry?

2 MS. RHODES: What are you proposing to say in
3 terms of giving them the option of coming back or not,
4 because I think that's fine with us. I'm just not
5 entirely sure what the options are you are going to
6 give them.

7 THE COURT: In other words, how would I respond
8 to their report to us that we have reached a verdict,
9 but we're deadlocked on two counts?

10 MS. RHODES: Yes.

11 THE COURT: I would bring them out here and I
12 would say ladies and gentlemen, it's late in the day.
13 We appreciate the hard work you have done so far.

14 I guess -- your point is well taken, Ms. Rhodes.
15 It's kind of hard for me to behave as if I have given
16 a modified Allen charge without having given the
17 modified Allen charge, and I think that's what your
18 question really goes to.

19 What do I say to them today other than an Allen
20 charge, is kind of what you're getting at. I think
21 that's right.

22 I can't, in other words, I can't say do you want
23 to continue deliberating today? Well, I guess I
24 could.

25 I could say do you want to continue today or do

1 you wish to return on Monday, and I'm absolutely
2 certain they are going to say we'll return on Monday.

3 MS. RHODES: Right. That's fine.

4 THE COURT: Then give them an Allen charge on
5 Monday.

6 MS. RHODES: Uh-huh. That's fine.

7 THE COURT: You really don't want a partial
8 verdict? I mean I can't believe you all don't want a
9 partial verdict.

10 MS. RHODES: Well, I think we might --

11 THE COURT: I'm shocked.

12 MS. RHODES: I think we're going to get one on
13 Monday.

14 THE COURT: Well, but that's exactly --

15 You mean you think we're going to get a complete
16 verdict on Monday?

17 MS. RHODES: No. I think we're going to get the
18 same result on Monday.

19 THE COURT: A partial verdict on Monday. So why
20 don't we take a partial verdict today? That's my
21 point.

22 MR. HARDING: It's okay with the government,
23 Your Honor.

24 THE COURT: I mean honestly, I don't want to
25 coerce anybody into anything, but they're telling us

1 they're done. They're done, two counts, one
2 defendant, and we could, you know, make book on the
3 likelihood, frankly.

4 I don't mind saying that clearly, the thinnest
5 count for guilty was Mr. Gardener on the Wyche
6 murders. There's no question about that. I think we
7 all understand that. Whether those are the two, I
8 don't know, but I'm speaking out of school because I
9 have no idea what the jury is thinking.

10 But we do know from what they've told us they're
11 down to two counts on one defendant.

12 MS. RHODES: Right. Well --

13 THE COURT: And I'm inferring from their
14 interest in Mr. Montgomery and Mr. -- and Ms. Wyche
15 that it may relate to those counts.

16 But in any event, why don't you step aside for a
17 moment Ms. Rhodes.

18 MS. RHODES: That's our prediction. I think it
19 might come --

20 THE COURT: You can think about it a little
21 more. Let me see what Mr. Martin thinks.

22 MR. MARTIN: Your Honor, I think at least Mr.
23 Coburn and I are going to be on the same page here. I
24 think you should ask them if they think they could
25 reach a verdict on the other two today. They're

1 probably going to tell you no, and we then take the
2 verdict. I don't think there should be an Allen
3 charge.

4 THE COURT: All right. Are you willing to have
5 me do that --

6 MR. MARTIN: We object to an Allen charge.

7 THE COURT: Are you willing to have me do that
8 in open court --

9 MR. MARTIN: Yes, sir.

10 THE COURT: -- and just have the jurors all look
11 at each other?

12 MR. MARTIN: Absolutely, Your Honor.

13 THE COURT: Okay.

14 MR. COBURN: I agree with 99 percent of what Mr.
15 Martin said. Mr. Kurland, when he was here, noted an
16 objection to a partial verdict and I'm reluctant to
17 take that back, particularly since he is not here
18 right now.

19 But I do completely agree with Mr. Martin, and I
20 think Your Honor is absolutely right to be, you know,
21 extremely sensitive to the question of coercion here.
22 I realize it would be totally unintended on the part
23 of the Court. You know, it's 3:40 p.m. now. They
24 thought they were going at three.

25 We're only talking about two counts. They've

1 returned apparently verdicts on lots and lots of other
2 counts, and for a host of reasons, it seems to me that
3 this is a situation in which an Allen charge isn't
4 needed, and isn't called for, and could be dangerous.

5 So I think that last option that Your Honor
6 proposed of asking them whether further work would be
7 productive is totally appropriate under these
8 circumstances.

9 By the way, I do strongly agree with Your
10 Honor's observation about Juror Number 12. I think he
11 has been pushing them. It's incredible to me that
12 this jury has been sending out notes saying, you know,
13 sort of projecting deliberations into late next week.
14 I have never seen that before, and I think it's
15 indicative of exactly what Your Honor said, and I
16 think all of that suggests that an Allen charge isn't
17 appropriate or required here.

18 THE COURT: Okay. Mr. Crowe.

19 MR. HARDING: If I could just correct --

20 THE COURT: Yes, Mr. Harding.

21 MR. HARDING: My agent thinks that I may have
22 communicated that I didn't feel an Allen charge was
23 appropriate by saying that it was all right with the
24 government if the Court took a partial verdict.

25 Of course, the government doesn't oppose a

1 partial verdict, but we also want an Allen charge as
2 to whatever counts aren't decided, unless, of course,
3 they are so trivial that it doesn't matter, and then
4 we'll reconsider the matter.

5 But the government believes that it has a right
6 to an Allen charge in this situation. They've clearly
7 expressed in their prior note to the Court that they
8 are deadlocked on these two counts as to one
9 defendant, and I think that the foundation is there
10 for an Allen charge.

11 THE COURT: All right. Thank you, Mr. Harding.
12 Mr. Crowe.

13 MR. CROWE: Your Honor, our position is we are
14 opposed to either a partial verdict or an informal
15 inquiry by the Court as to how they stand with respect
16 to individual counts and individual defendants.

17 THE COURT: Okay. What I'm going to do is I'm
18 going to have the jury come out with the verdict
19 sheet. I will confirm with the foreman the response
20 to my question to the jury, that they have indeed
21 reached a unanimous verdict as to every count and
22 every defendant, with the exception of two counts as
23 to a single defendant.

24 If the foreperson here in open court confirms
25 that understanding, then I will ask the foreperson,

1 Mr. Foreman, is there a reasonable likelihood that
2 continued deliberations either today or on Monday will
3 result in the jury's ability to reach unanimity as to
4 the remaining two counts?

5 I'm going to proceed on the basis of the
6 foreman's answer to that question. If he says no, I
7 intend to take a partial verdict. We'll proceed with
8 Ms. Arrington bringing me the verdict sheet, and I'm
9 going to take the verdict of the jury. Then Ms.
10 Arrington will harken the jury, not by the verdict
11 sheet, but simply by each defendant on all counts.
12 That's what I propose to do.

13 May we have the jury, please? And please tell
14 the jury to bring the verdict sheet to the courtroom
15 with them.

16 (The jury entered the courtroom.)

17 THE COURT: Ladies and gentlemen of the jury,
18 good afternoon once again, and thank you for you
19 patience, as I conferred with counsel regarding your
20 most recent communications.

21 Mr. Foreman, I need first to confirm here in
22 open court our understanding of the jury's response to
23 the question that I sent in in writing a few moments
24 ago.

25 Is it correct that the jury has reached a

1 unanimous decision as to all counts and all
2 defendants, with the exception of two counts relating
3 to a single defendant?

4 THE FOREPERSON: Correct.

5 THE COURT: In that light, Mr. Foreman, having
6 earlier indicated to us in your note that -- you used
7 the word deadlocked, which is not a particularly
8 technical legal term. But I ask you, is there any
9 reasonable possibility, if the jury continues its
10 deliberations either today, this afternoon, or on
11 Monday, that with additional efforts to reach
12 unanimity, the jury is reasonably likely to do so?

13 (Pause.)

14 THE FOREPERSON: Yes.

15 THE COURT: All right. In that light, I will
16 excuse you to return to the jury deliberation room;
17 but perhaps, counsel, I should go ahead and administer
18 additional advice to the jury.

19 Let me give you this supplemental instruction,
20 ladies and gentlemen, before you continue your
21 deliberations. Please consider this instruction
22 together with all of my prior instructions.

23 The Court has received information that you sent
24 me from the standpoint of your having been unable to
25 reach a unanimous verdict as to, your foreperson says,

1 two counts. In view of the time consumed and the
2 evidence, and particularly documentary evidence in
3 this case, that is not unusual. However, I wish to
4 make a few suggestions which you may desire to
5 consider in your deliberations, along with all the
6 evidence and all the instructions previously given.

7 This, as you well realize, is an important case.
8 The trial has been expensive to both the prosecution
9 and the defense. If you should fail to agree on a
10 verdict as to any particular count, the case is left
11 open as to those counts and undecided. Like all
12 cases, it must be disposed of sometime.

13 There appears no reason to believe that another
14 trial would not be equally expensive to both sides,
15 nor does there appear any reason to believe that the
16 case can be tried again better or more exhaustively
17 than it has been on either side of the aisle.

18 Any further jury must be selected in the same
19 manner and from the same source as you have been
20 chosen, so there appears no reason to believe that the
21 case would ever be submitted to 12 men and women more
22 intelligent or more impartial or more competent to
23 decide it, or that more or clearer evidence could be
24 produced on behalf of either side.

25 Of course, these matters suggest themselves upon

1 brief reflection to all of us who have sat through the
2 trial. The only reason I mention them is because some
3 of them may have escaped your attention, which must
4 have been fully occupied up to this time in reviewing
5 the evidence.

6 They are matters which, along with others, and
7 perhaps more obvious ones, remind us how important and
8 desirable it is that you unanimously agree upon a
9 verdict of either guilty or not guilty as to all
10 counts, if you can do so without violence to your own
11 individual judgment and conscience.

12 It is unnecessary to add that the Court does not
13 wish any juror to surrender his or her conscientious
14 convictions. As I stated in the instructions given at
15 the time the case was submitted to you, do not
16 surrender your honest convictions as to the weight or
17 effect of evidence solely because of the opinion of
18 the other jurors or for the mere purpose of returning
19 a verdict.

20 However, it is your duty as jurors to consult
21 with one another and to deliberate with a view to
22 reaching an agreement if you can do so without
23 violence to any judgment.

24 Each of you must decide the case for yourself,
25 but you should do so only after a consideration of the

1 evidence with your fellow jurors, and in the course of
2 your deliberations, you should not hesitate to change
3 your opinion when you are convinced it is erroneous.

4 In order to bring 12 minds to a unanimous
5 result, you must examine the question submitted to you
6 with candor and frankness and with proper deference to
7 and regard for the opinions of each other. That is to
8 say, in conferring together, each of you should pay
9 due attention and respect to the views of the others
10 and listen to each other's arguments with the
11 disposition to reexamine your own views.

12 If much the greater number of you are for
13 conviction, each dissenting juror ought to consider
14 whether a doubt in his or her mind is a reasonable one
15 since it makes no effective impression upon the minds
16 of so many equally honest, equally intelligent fellow
17 jurors who bear the same responsibility, serve under
18 the sanction of the same oath, and have heard the same
19 evidence with, we may assume, the same attention and
20 equal desire to arrive at the truth.

21 On the other hand, if a majority or even a
22 lesser number of you are for acquittal on the
23 unresolved counts, other jurors ought to seriously ask
24 themselves again whether they do not have reason to
25 doubt the correctness of a judgment which is not

1 concurred in by many of their fellow jurors and
2 whether they should not distrust the weight or
3 sufficiency of evidence which fails to convince the
4 minds of several of their fellow jurors beyond a
5 reasonable doubt.

6 You are not partisans. You've got no friends to
7 reward, no enemies to punish. You are judges, judges
8 of the facts. Your sole purpose is to ascertain the
9 truth from the evidence before you. You are the sole
10 and exclusive judges of the credibility of all the
11 witnesses and the weight and effect of all the
12 evidence.

13 In the performance of your duty, you are at
14 liberty to disregard all comments of both Court and
15 counsel, including, of course, the remarks I am now
16 making to you.

17 Remember at all times that no juror is expected
18 to yield a conscientious conviction he or she may have
19 as to the weight or effect of evidence. But remember
20 also, that after full deliberation and consideration
21 of all the evidence, it is your duty to agree upon a
22 verdict, if you can do so without violating your
23 individual judgment and your individual conscience.

24 With that, Mr. Foreman, and ladies and gentlemen
25 of the jury, I will excuse you to return to the jury

1 room. You may promptly determine among yourselves
2 whether you wish to continue deliberations this
3 afternoon for a bit more time or whether you wish to
4 conclude your deliberations now, to return on Monday
5 morning at 9:30, in accordance with our normal
6 pattern.

7 The jury is excused to continue its
8 deliberations and to communicate to the Court whether
9 it wishes to continue.

10 (The jury was excused 3:50 p.m.)

11 THE COURT: Any exception to the modified Allen
12 charge?

13 MR. HARDING: Not from the government, Your
14 Honor.

15 MR. COBURN: We do have one, Your Honor. I just
16 wanted to make sure my previous objection to the Allen
17 charge is on the record.

18 MR. MARTIN: The same here, Your Honor.

19 THE COURT: I'm sorry. What was the previous
20 objection to the Allen charge?

21 MR. COBURN: My proposal had been that Your
22 Honor just do the first part, just tell them --

23 THE COURT: Oh, I see. Oh, I see, to the giving
24 of the Allen charge.

25 MR. COBURN: Exactly.

1 THE COURT: Okay.

2 MR. MARTIN: The same here, Your Honor.

3 THE COURT: And Mr. Martin joins that.

4 MR. COBURN: I guess just to, you know --

5 THE COURT: I've got to say, I was surprised at
6 the answer, but that shows you what I know.

7 MR. MARTIN: Mr. Crowe told me he would have
8 best his house on the answer.

9 MR. COBURN: I was surprised with the answer
10 also. He seemed to think. I mean there was a
11 significant pause there.

12 THE COURT: He did. He's a very thoughtful
13 young man. It may be that it's, you know, Friday
14 afternoon and he thinks that with a little more time,
15 they can work it out.

16 Mr. Crowe.

17 MR. CROWE: Your Honor, with respect to the
18 Allen charge, we would object to it because I think
19 clearly in all instances references to the expense of
20 retrial are disfavored.

21 In addition to that, I think it's factually
22 incorrect. Obviously another trial against one
23 defendant on two counts is neither going to be nearly
24 as expensive or as extensive as what we have been
25 through for the last two months.

1 THE COURT: Thank you. I did reflect on that
2 very briefly. They may not know about a partial
3 verdict. In fact, I think they probably are thinking,
4 particularly in light of that last question, that --

5 Well, I'm not going to predict anymore what the
6 jury thinks on those.

7 MR. CROWE: Thank you, Your Honor.

8 Noted, Mr. Crowe.

9 MS. RHODES: Your Honor, for Mr. Mitchell, we
10 would adopt Mr. Crowe's objection.

11 THE COURT: Very well.

12 And the jury says they wish to return Monday
13 morning 9:30. And so, can we ask the jury to come in,
14 please?

15 Belinda, do you have an envelope that you can
16 give to the jury to put the verdict sheet in and some
17 tape that he can seal it? Do you have any tape?

18 THE CLERK: Yes.

19 (The jury entered the courtroom 3:54 p.m.)

20 THE COURT: Mr. Foreman, ladies and gentlemen,
21 thank you for responding very promptly. You have
22 indicated to us that you will continue your
23 deliberations on Monday morning at 9:30.

24 Mr. Foreman, we are going to provide you as you
25 return to the jury room with an envelope, perhaps this

1 one. What I would like you to do, on the assumption
2 that you have completed the verdict sheet so far based
3 on the jury's work, I would ask you to fold up the
4 verdict sheet and to put it in this envelope and seal
5 it -- we're going to give you some tape -- so that
6 when Ms. Arrington goes in after you all leave to
7 collect all the exhibits and so forth, the verdict
8 sheet will be in a separate envelope, under seal. It,
9 together with all the other evidence -- ah, great --
10 will be kept under seal during the recess and locked
11 up with all of the exhibits. No one will look at the
12 verdict sheet whatsoever or, of course, any of your
13 notes and so forth.

14 Please continue to adhere carefully and
15 faithfully to all of my instructions. Have no
16 discussion about the case with anyone. Do not permit
17 anyone to discuss the case in your presence. Do not
18 discuss the case with each other during this weekend
19 recess. Avoid any media reports about the case, and
20 continue to adhere to all of my instructions.

21 Please return on Monday morning, no later than
22 9:30 to continue your deliberations, bearing in mind
23 all of my instructions. Once all 12 of you have
24 arrived, deliberations may resume. Upon your
25 notification, we will send in all of the exhibits and

1 other material.

2 Have a pleasant weekend, ladies and gentlemen.
3 You are excused until Monday morning, at 9:30, and
4 we're going to provide this envelope and some tape.

5 Oh, by the way, one of you had some issues
6 regarding reimbursements and expenses, and we are
7 happy to say that that was able to be taken care of.
8 So Ms. Arrington will have something for you.

9 Thank you, ladies and gentlemen.

10 (The jury was excused 3:56 p.m.)

11 THE COURT: Okay. I thank you all very much.
12 We are in recess, pending the call of the jury. I
13 would strongly urge counsel to be in the neighborhood
14 Monday morning. But have a pleasant weekend.

15 We're in recess.

16 MR. HARDING: Thank you, Your Honor.

17 MR. COBURN: Thank you, Your Honor.

18 (The proceedings concluded.)
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REPORTER'S CERTIFICATE

I hereby certify that the foregoing transcript in the matter of United States of America vs. Willie Mitchell, et al., Defendants, Criminal Action No. AMD-04-029, before the Honorable Andre M. Davis, United States District Judge, on December 5, 2008 is true and accurate.

Gail A. Simpkins
Official Court Reporter

1	adhere [2] - 24:14, 24:20	aside [1] - 11:16	22:18	consumed [1] - 17:1
12 [5] - 6:24, 13:10, 17:21, 19:4, 24:23	administer [1] - 16:17	assume [1] - 19:19	charges [1] - 5:10	continue [10] - 9:23, 9:25, 16:20, 21:2, 21:7, 21:9, 23:22, 24:14, 24:20, 24:22
2	adopt [1] - 23:10	assumption [1] - 24:1	child [1] - 7:21	continued [1] - 15:2
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3	AFTERNOON [1] - 1:15	Avoid [1] - 24:19	chosen [1] - 17:20	conviction [2] - 19:13, 20:18
35 [1] - 1:13	afternoon [9] - 3:3, 6:17, 6:19, 7:12, 8:5, 15:18, 16:10, 21:3, 22:14	B	circumstances [2] - 6:21, 13:8	convictions [2] - 18:14, 18:16
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